

Minutes

California Biodiversity Council Joint Meeting with CSAC, Pasadena, California November 19, 2002

Council Members in Attendance

Co-chairs:

Mary Nichols, California Resources Agency
Mike Pool, Bureau of Land Management

Members:

Steve Bennett, South Coast Regional Association of Counties
Jack Blackwell, USDA Forest Service
Louis Blumberg, California Department of Forestry and Fire Protection
Margaret Clark, Southern California Association of Governments
Dale Cox, United States Geological Survey
Alex Glazer, University of California
Jerry Harmon, San Diego Association of Governments
Bob Haussler, California Energy Commission
Bob Hight, California Department of Fish and Game
Nancy Huffman, Northern California Counties Association
Beth Jines, California Environmental Protection Agency
Chuck Keene, Department of Water Resources
Luana Kiger, USDA Natural Resources Conservation Service
Jeff Lovich, USGS Western Ecological Research Center
Ken McDermond, US Fish and Wildlife Service
Robert Meacher, Regional Council of Rural Counties
Frank Michny, Bureau of Reclamation
Jose Phillips, California Conservation Corps
Rick Rayburn, California Department of Parks and Recreation
Jim Shevock, National Park Service
Paul Thayer, State Lands Commission
Colonel Anthony Wendel, US Marine Corps

Opening Remarks

Mike Pool opened the meeting at 8:30 am and welcomed the group. He first thanked the CBC Staff and local cooperators for the incredible tour through the Angeles National Forest the preceding afternoon.

Chris Nota – CBC Executive Committee Report

Ms. Nota announced that the next meeting of the CBC Executive Committee would be held on Thursday, January 9, 2003 on the 15th Floor of the Resources Agency building. Chris also reminded the Council of the upcoming regional meetings in 2003. February 12 & 13 will be a meeting held in Sacramento focusing on environmental justice. A regional meeting on May 14 & 15 will highlight pertinent issues for the Santa Cruz coastal area.

Council Announcements

- Madelyn Glickfeld presented the Council with a summary of the California Legacy Project's latest accomplishments and a view into what 2003 holds for the Legacy Project (See Legacy Project handout in information archive, <http://ceres.ca.gov/biodiversity/Meetings/archive/pasadena.html>).
- Jeff Lovich, Dale Cox, and Lucy Jones of USGS presented a summary of the USGS Urban Earth. This project is combining the knowledge of geology, hydrology, geography, and biology to investigate the effect of the city on the Earth and of the Earth on the city. USGS Urban Earth is capitalizing on areas of shared expertise, within the USGS and with local cooperators, to discover overlapping goals that may find the causes and consequences of earthquakes, better management techniques for water resources, and the knowledge to help restore riparian and coastal habitats. This research is of every day interest to the 20 million people of southern California and critical to the governments, industries, and people of the region.

JOINT MEETING

Gary Freeman, CSAC Immediate Past President and Glenn County Supervisor, opened the joint meeting and welcomed the Biodiversity Council to the 108th Annual Meeting of the California State Association of Counties (CSAC). Supervisor Freeman also explained a brief history of the Biodiversity Council and its members.

Mary Nichols, Secretary for Resources, began the meeting by indicating that the Council has accepted CSAC as a full member of the Council. She also indicated that this is such an important link to make. For example, with the field trip to the Angeles National Forest on the previous day, fire brought land management agencies, land use planners, and citizens together. These many levels and varieties of interested parties have decided to keep meeting even when there is no major fire at hand, because the experience is so beneficial.

Secretary Nichols indicated that the first panel will highlight a very current and relevant topic: how to collaboratively create infrastructure for the environment and the economy. With that, Secretary Nichols introduced Mike McCoy, the panel moderator.

Panel One: Creating Environmental and Economic Infrastructure

Mike McCoy, Co-Director of the Information Center for the Environment at UC Davis, noted that he felt quite "privileged to be at what [he] considers a historic moment – the joining together of CBC and CSAC. Mike noted that he will take any excuse to get to a river...and when there he is always supremely interested by the confluence. This is the point where the union takes place. At first there is confusion and chaos and this is true with the joining of the goals of our various institutions. But downstream, there is a bigger and more effective river. Mike then introduced the panel members: Supervisor Tom Mullen, Riverside County; Ron Rempel, Department of Fish and Game; Janet Fairbanks, San Diego Association of Governments; and Margaret Sohagi, Fox and Sohagi, LLP.

Supervisor Mullen began by explaining some of the history of the Riverside County Integrated Project (RCIP, <http://www.rcip.org>). Most importantly, California is a huge state currently with 35

million citizens and 60 million are expected by 2030. This presents an incredible dilemma of where to put the additional 7 million people expected for Southern California. More specifically, Riverside County is the fourth largest county in the nation and is just smaller than the state of Massachusetts. This presents the question of how will all of these people move around; how do we provide the appropriate infrastructure. Infrastructure includes things like transportation, new freeways, power, gas lines, water, flood control, etc. In doing this, it is important to ***always*** include the parties of real interest like landowners, builders, and residents in addition to other government agencies.

Ron Rempel, Deputy Director for Habitat Conservation with the California Department of Fish and Game, spoke next. He first indicated that he has been working specifically on conservation planning for at least the last decade. He felt it important to build on Supervisor Mullen's comments by sharing the commonalities that he sees in the project that have been successful over the year. The following is a listing of the elements of land use plans that have been successful.

- These plans come together based on relationships. It is vital to know where each person is coming from
- Sitting down and listening to the local community will allow you to gain a better understanding of the scope of the project.
- Education – you may have 150 individuals involved. Everyone needs a basic understanding of the process and the political reality in each county.
- Many agencies are involved and they don't all always understand the pertinent laws. Even though it's a local jurisdiction, land use planning needs to be understood by the agencies.
- Wildlife agencies need to understand their roles. It is important to have the Department of Fish and Game and the US Fish and Wildlife Service operating as one unit.
- Local political leadership can propel the project and keep it going.
- Everyone faces how to express values during the process
 - Resource issues (wildlife agencies)
 - Quality of life issues (i.e., parents trying to get to a soccer game but are stuck in traffic.)
 - Economic health

Janet Fairbanks is a Senior Planner for the San Diego Association of Governments (SANDAG). She has been managing a Habitat Conservation Plan (HCP) in San Diego County for over ten years. Janet first noted that with the HCP there are 99 local elected officials that she works for (18 cities and the one county). Although this makes things difficult and complicated, their participation also means that habitat has become important to local officials. Furthermore, Janet felt that the HCP process brought solutions to the local elected officials rather than just reminding them about ever-growing problems. HCPs are just basic, comprehensive planning that combine values important for both habitat and infrastructure.

Ms. Fairbanks felt that the North County Multiple Habitat Conservation Program (MHCP) has been successful because of the valuable leadership (more information on the MHCP is available here, <http://www.sandag.org/index.asp?projectid=97&fuseaction=projects.detail>). The San Diego Board of Supervisors and the mayor of San Diego took a risk in this attempt to keep everyone happy.

Several factors make the project successful according to Ms. Fairbanks.

- It is important to focus on the goal. It can be complicated, but simply remember that you are aiming to conserve the land in a comprehensive manner.
- Each party involved needs a sense of ownership. In order to feel that the process is complete, all parties need to feel that they participated in putting the plan together.
- True partnership is between all levels of government. A good partnership should bring out the strengths and suppress the weaknesses of each agency.

In conclusion, Ms. Fairbanks also pointed out that education is key. In order for everyone to understand the process you need to the planners to understand the basics of biology and the biologists to understand basic planning principles. This allows each group to understand the goals of the other. It is a great idea to do a joint training program before the NCCP/HCP even begins.

Margaret Sohagi is an attorney for Fox and Sohagi, LLP and addressed the legal side of the NCCP/HCP process. She started out by indicating although she is a “lawyer” she was originally trained as a planner. She stressed that whether you like it or not the CEQA/NEPA (California Environmental Quality Act/National Environmental Policy Act) process will be included in an NCCP. An EIR/EIS (Environmental Impact Report or Statement) allows you to put together a comprehensive document to work from and will ultimately help you through the NCCP. Writing these documents in the beginning asks you to decide what the plan (NCCP) will be for and who is the lead agency. Clarifying this at the outset is of great benefit.

Regarding takings (Section 7 of the Endangered Species Act), Ms. Sohagi indicated that you have to spend some time making sure that there are no takings in the plan. You need to sit down with the property owners and discuss the issue as well as look at the development potential for each parcel in the surrounding area.

Furthermore, Margaret indicated that is helpful to build ADR (alternative dispute resolution methods) into the planning process. Suggest that mediation be included, incorporated and put in the final documents.

To begin the Question and Answer portion of the session, Resources Secretary Mary Nichols asked the audience “how can local governments get the proper attention and personnel from state and federal agencies to facilitate a successful process?”

- Tom Mullen answered that RCIP recognized the scope of their project. They engaged representatives from Washington, D.C. and then again at the State level. He noted that Riverside is a very conservative county that may not be interested in habitat and environmental issues. So, they went to the administration again.

Secretary Nichols asked if another county could do the same thing: working with representatives at that high level.

- Ron Rempel replied, yes, it would be possible especially as organizations will be shrinking but acquiring greater responsibilities. Ron further indicated that you must have the responsible, decision-makers at the meetings.
- Janet Fairbanks added on that this again is why education is so important. She personally spent time with each new local elected official or staff person to educate them and bring them up to speed. You need commitment and desire from all of the partners.

Secretary Nichols noted that a supervisor from San Bernardino County previously indicated, “The CEQA process is protracted, redundant, and ineffective. In most instances sufficient information is readily available to make competent environmental decisions without the hundreds of thousands of dollars and hours of additional study, leading authorities to a finding of significance and a statement of overriding consideration.” The Secretary asked the panel to address this comment.

- Margaret Sohagi replied that it is frustrating, but it is also a reality. You need to get someone good on board for collecting data and information and make sure that everyone is talking to each other. Also you need to have a solid legal framework to rest on.

Secretary Nichols asked the panel, “We all know that the process is costly and difficult, but what do you get out of it at the end of the day?”

- Supervisor Mullen responded that you get an opportunity to save open space for future generations. If we don’t plan for infrastructure needs twenty years in advance, the greatness of California will be tremendously decreased. Now, we are just holding on to what we’ve got.
- Ron Rempel said that saving open space inherently protects biodiversity. But also, it is an opportunity for the public to understand and feel ownership with the reserve systems in California. This ownership helps greatly in long-term protection.
- Janet Fairbanks added that the NCCP (but not the ESA) preserves species that are not already endangered. It is a very proactive approach.

Secretary Nichols then opened it up to questions from the audience. Glenn Hawes, District 3 Supervisor for Shasta County asked the panel, “How do you use mitigation banking?”

- Ron Rempel replied that it is an integral part of getting under the requirements. It is also an opportunity for the private sector to be involved. However, you can only put banks in appropriate spots – it must be well thought out.

Bill Dennison, Plumas County Supervisor, asked, “When the best available science isn’t good, how do you separate out the ‘junk science’?”

- Mike McCoy, the panel moderator, noted that it is quite difficult. For example, with the recent crisis regarding water in the Klamath Basin, the National Academy of Sciences came in. McCoy was optimistic though that new standards are being set for peer review of science.

Ventura County Supervisor Steve Bennett asked, “How difficult is it to involve cities in these sorts of processes?”

- Tom Mullen responded by indicated that the RCIP process dealt with 24 cities and two councils of governments (COGs). They put a half-cent sales tax increase on the November ballot that covered traffic improvements but also an MSHCP fee requirement before you could get to the transportation dollars. They got the transportation committee to adopt it and the entire process required a lot of education. He noted that the ballot initiative passed by 69.3%.
- Janet Fairbanks added that southwestern San Diego County HCP started fourteen years ago by the City of San Diego. They were facing a lawsuit and had no choice but to work together and proceed. Soon enough, cities in northern San Diego County were watching, saw that this type of collaboration was a good idea and signed a Memorandum of Understanding with the Department of Fish and Game, US Fish and Wildlife Service, Department of Transportation and her agency, SANDAG.

Mike Spear, Deputy Secretary for Land Conservation with the Resources Agency asked the panel how they got the appropriate leadership and support for their projects. He included that in his previous position as Manager of the California/Nevada Operations Office for the US Fish and Wildlife Service Tom Mullen scheduled a conference call for those involved in RCIP for 7:00am every Tuesday morning. This weekly call gathered more and more participants as they realized this was an important process and they didn't want it to go on without them. Mullen basically demanded involvement.

- Supervisor Mullen responded by stressing the importance of state and federal participation. It is imperative to have these folks on board. For RCIP, it included the US Environmental Protection Agency, Army Corps of Engineers, Fish and Wildlife Service, Federal Highway Administration, Department of Fish and Game, California Environmental Protection Agency as well as 124 community members.

Secretary Nichols closed the session for a short break before the next panel.

Panel Two: The Creative Uses of Local Agency Formation Commissions (LAFCOs)

Mike Pool, State Director of the Bureau of Land Management, opened up the second panel and introduced the panel moderator, Bob Braitman.

Bob Braitman, Executive Director for the Santa Barbara LAFCO, opened the panel by giving a basic description and history of LAFCOs. The end of World War II saw California experiencing a tremendous population increase, which resulted in the sporadic formation of cities and special service districts. The results of this development boom became evident as more of California's agricultural land was converted to urban uses. Premature and unplanned development created inefficient, expensive systems of delivering public services using various small units of local government. Governor Edmund G. Brown, Sr. responded to this problem in 1959 by appointing the Commission on Metropolitan Area Problems. The Commission's charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of overlapping, local governmental jurisdictions. The Commission's recommendations on local governmental reorganization were introduced in the Legislature in 1963, resulting in the creation of Local Agency Formation Commission, or "LAFCOs," operating in each county except San Francisco.

LAFCOs focus on the following three objectives 1) to encourage the orderly formation of local governmental agencies; 2) to preserve agricultural land resources; and 3) to discourage urban sprawl. LAFCO's are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure and preparing a Sphere of Influence for each city and special district within each county. The Commission's efforts are directed to seeing that services are provided efficiently and economically while agricultural and open-space lands are protected.

Commissions are usually composed of two county supervisors selected by the Board of Supervisors; two city council representatives selected by a majority of the mayors in the county; and one public member selected by the four members. Citizens are welcome and encouraged to attend regular LAFCO meetings and state their views during public hearings on proposals before the Commission. In addition, the meetings provide an excellent opportunity for citizens to familiarize themselves with the growth, development and inter-jurisdictional issues facing their county.

Tal Finney, Interim Director, Governor's Office of Planning and Research; and **Terry Roberts**, State Clearinghouse Director, Governor's Office of Planning and Research coordinated to discuss the new requirements for LAFCOs, mainly the Growth within Bounds Report and other legislation; the new requirements of AB 2838; OPR Municipal Service Review guidelines; and the interrelationship of regulations with "Environmental Goals and Policies".

LAFCOs are changing; there is a new requirement to comprehensively review municipal services (as required by AB 2838). LAFCO does not have direct land use authority, but LAFCO can be a more powerful force in balancing competing demands of urban growth and environmental protection.

Terry Roberts went in to an explanation of the Municipal Service Review (MSR). Municipal services cover the full range of services that a public agency provides, including water, sanitation, drainage, and more. An MSR addresses a wide range of issues related to providing the service. MSRs are required for any services for which a Sphere of Influence (SOI) is adopted or updated.

As for when a LAFCO must do an MSR, there is no explicit requirement to perform MSR on a set schedule. Instead, it is inherently set by the fact that LAFCO must conduct the MSR prior to, or in conjunction with, the adoption or update of a sphere of influence (SOI) and since SOIs must be updated every five years, MSRs must be conducted at least every five years. The MSR must make the following nine determinations:

- Infrastructure needs and deficiencies
- Growth and population projections
- Financing constraints and opportunities
- Cost avoidance opportunities
- Opportunities for rate restructuring
- Opportunities for shared facilities
- Government structure options
- Evaluation of management efficiencies
- Local accountability and governance

LAFCOs should do MSRs because of the opportunities for rate restructuring; opportunities for shared facilities; government structure options; evaluation of management efficiencies; local accountability and governance; the LAFCO gains a better understanding of the nature of the services that are/will be provided to a growing area; and the MSR can influence LAFCO's subsequent decisions on SOI boundaries, annexations, and service extensions.

The Mayor of the City of Citrus Heights, **Roberta MacGlashan**, spoke next to address the perspective of cities on the LAFCO process. Newly incorporated cities like Citrus Heights, Elk Grove and Rancho Cordova are exemplary examples illustrating the dilemma in balancing protection issues, growth pressures, and financial necessity. Mayor MacGlashan noted that urban development should occur in cities, but what happens when cities don't want growth? It is in this scenario that LAFCOs can address city decisions.

Ventura County Supervisor **Steve Bennett** addressed LAFCOs from a county perspective. Supervisor Bennett was only elected in fall of 2001 and came into office on January 1 of this year. He discussed how LAFCOs apply to the specific issue of siting new schools. Ventura County established criteria for LAFCO to consider when reviewing an application for school development outside a city sphere. The criteria address:

- Whether the school district and city have planned together
- Whether the school district has exhausted alternatives to going outside the city sphere
- Whether the sphere amendment is appropriate at this time

Supervisor Bennett indicated that there are several reasons why the LAFCOs should adopt criteria such as these. They include the encouraging advance planning by cities and school districts; providing cities and school district with notice of LAFCO's concerns; and providing information for LAFCO Commissioner's decision making. The Supervisor stressed that this is just one particular issue out of the many that LAFCO's address.

Secretary Nichols and State Director Pool closed the meeting at 12:05 pm.

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**The next CBC meeting will be on February 12
and 13, 2003 in Sacramento, CA.**